

IN THE UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF GEORGIA
SAVANNAH DIVISION

OCT - 7 2015

UNITED STATES OF AMERICA)

v.)

CLERK, S. DIST. OF GA. CASE NO. 4:05-cr-00012-1

Donald Lee Ubele,)

Defendant.)

O R D E R

On May 17, 2006, Defendant was sentenced by this Court to a 262-month custodial term for the offenses of possession of a firearm by a convicted felon (armed career criminal) and possession of an unregistered machinegun. On February 17, 2015, Defendant filed a motion with this Court requesting consideration for a sentence reduction under 18 U.S.C. § 3582(c)(2), pursuant to Amendments 782 and 788 to the United States Sentencing Guidelines. Defendant also requests appointment of counsel.

Amendment 782, effective November 1, 2014, revised the guidelines applicable to drug trafficking offenses by changing how the base offense levels in the Drug Quantity Table in § 2D1.1 incorporate the statutory mandatory minimum penalties for such offenses. Amendment 788 simply incorporated within the Guidelines the directive that Amendment 782 could only be applied retroactively as of November 1, 2015.

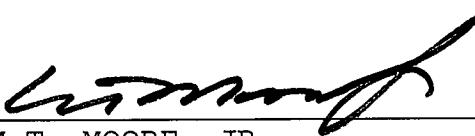
Donald Lee Ubele
4:05-cr-00012-1
Order on Motion

Defendant was not convicted of a drug offense, nor was the § 2D1.1 guideline in any manner incorporated within his guideline calculations. Therefore, pursuant to U.S.S.G. § 1B1.10, Amendment 782 is not applicable to Defendant, and a reduction in Defendant's term of imprisonment is not authorized under 18 U.S.C. § 3582(c)(2).

As to Defendant's request for counsel, Defendants seeking sentence reductions pursuant to § 3582 have no statutory or constitutional right to appointed counsel, United States v. Webb, 565 F.3d 789, 795 (11th Cir. 2009), which the Court has determined unnecessary in this case.

Based on the foregoing, Defendant's Motion for Sentence Reduction pursuant to 18 U.S.C. § 3582(c)(2), as well as his request for counsel, are DENIED.

SO ORDERED this 7th day of October 2015.


WILLIAM T. MOORE, JR.
JUDGE, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA